

STATE OF CONNECTICUT



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STATEWIDE GRIEVANCE COMMITTEE

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Second Floor - Suite Two
287 Main Street, East Hartford, Connecticut 06118-1885

09/14/2012

OFFICE OF CHIEF DISCIPLINARY C
100 WASHINGTON STREET
HARTFORD CT 06106

MITCHELL A COHEN
LAW OFFICES OF MITCH
44 CAPITOL AVENUE
SUITE 102
HARTFORD CT 06106-1764

RE: GRIEVANCE COMPLAINT #12-0006
BOYSAW vs. COHEN

Dear Respondent and Disciplinary Counsel:

Enclosed herewith is the decision of the reviewing committee of the Statewide Grievance Committee concerning the above referenced matter. In accordance with the Practice Book Sections 2-35, 2-36 and 2-38(a), the Respondent may, within thirty (30) days of the date of this notice, submit to the Statewide Grievance Committee a request for review of the decision.

A request for review must be sent to the Statewide Grievance Committee at the address listed above.

Sincerely,

Michael P. Bowler

Encl.

cc: Attorney John J. Quinn
Karita Boysaw

NOTICE REGARDING DECISION
SANCTIONS OR CONDITIONS

GRIEVANCE COMPLAINT # 12-0006

THE ATTACHED DECISION IS PRESENTLY STAYED IN ACCORDANCE WITH
PRACTICE BOOK §§2-35 AND 2-38.

SECTION 2-35 STATES, IN PART, AS FOLLOWS:

(e) ... Enforcement of the final decision ... shall be stayed for thirty days from the date of the issuance to the parties of the final decision. In the event the respondent timely submits to the Statewide Grievance Committee a request for review of the final decision of the reviewing committee, such stay shall remain in full force and effect pursuant to Section 2-38(b).

SECTION 2-38 STATES, IN PART, AS FOLLOWS:

(b) ... Enforcement of a decision by a reviewing committee imposing sanctions or conditions against the respondent ... shall be stayed for thirty days from the issuance to the parties of the final decision of the reviewing committee pursuant to Section 2-35(g). If within that period the respondent files with the Statewide Grievance Committee a request for review of the reviewing committee's decision, the stay shall remain in effect for thirty days from the issuance by the Statewide Grievance Committee of its final decision pursuant to Section 2-36. If the respondent timely commences an appeal [of the sanctions or conditions to the Superior Court] pursuant to subsection (a) of this section, such stay shall remain in full force and effect until the conclusion of all proceedings, including all appeals, relating to the decision imposing sanctions or conditions against the respondent. If at the conclusion of all proceedings, the decision imposing sanctions or conditions against the respondent is rescinded, the complaint shall be deemed dismissed as of the date of the decision imposing sanctions or conditions against the respondent.

DECISION DATE: 9/14/12

STATEWIDE GRIEVANCE COMMITTEE

Karita Boysaw
Complainant

vs.

Grievance Complaint #12-0006

Mitchell Cohen
Respondent

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 80 Washington Street, Hartford, Connecticut on July 12, 2012. The hearing addressed the record of the complaint filed on January 3, 2012, and the probable cause determination rendered by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the towns of Hartford on May 3, 2012, finding that there existed probable cause that the Respondent violated Rules 1.3 and 1.4 of the Rules of Professional Conduct.

Notice of the July 12, 2012 hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on June 7, 2012. Pursuant to Practice Book §3-14 et seq., certified legal intern Alexei Lourie assisted in the presentation of this matter under the supervision of Assistant Disciplinary Counsel Beth L. Baldwin. The Complainant and the Respondent appeared and testified. No exhibits were admitted into evidence.

Reviewing committee member Vincent Mauro was not available for the July 12, 2012 hearing. Disciplinary Counsel and the Respondent waived the participation of Mr. Mauro in the consideration and decision of the matter. Accordingly, the matter was considered and decided by the undersigned.

This reviewing committee finds the following facts by clear and convincing evidence:

The Respondent represented the Complainant's mother in a number of legal matters. When the Complainant's mother was terminally ill in 2007, she asked the Complainant to call the Respondent and have him visit her and prepare her last will and testament. The Complainant called the Respondent and he came to visit her mother. The Complainant's mother was concerned that several of her children should not be permitted to inherit anything because the state of Connecticut might lien their interest in the estate to pay back certain government benefits that had been received. The Respondent advised the Complainant. The Respondent drafted a will that created a "spendthrift trust" in the will naming the Complainant as the trustee and executor. The asset of the spendthrift trust was the Complainant's mother's home.

Shortly thereafter the Complainant's mother died. The Complainant told the Respondent and he provided her with the will. The Complainant continued to live in her mother's home and

make mortgage payments. The will was not probated. In 2010, the Complainant had some financial difficulties and was in arrears on the mortgage. She was attempting to refinance the property. The Complainant could not refinance the property because the property was not in her name. The Complainant asked the Respondent to probate the will. He agreed to do the legal work for \$600. The Complainant paid him \$600. The Respondent did no work on the file. The Respondent did not return many of the Complainant's calls. When he did speak to her, he made excuses for why the will had not been probated including a false claim that the paperwork was filed and he was waiting for a court date. Finally, the Complainant contacted the probate court and discovered no work had been done to probate the estate. The probate judge also told her that the "spendthrift trust" clause in the will was unusual and she should obtain a lawyer. To date, the estate is still in probate. The Complainant's mother's property is in foreclosure. The Complainant was not eligible for foreclosure mediation programs or refinance programs because the title to the property is not in her name.

After this grievance complaint was filed, the Respondent returned all of the Complainant's money to her.

The Respondent admitted he engaged in misconduct.

There is clear and convincing evidence that the Respondent engaged in misconduct. The Respondent failed to act promptly to file the necessary paperwork with the probate court for the Complainant. The Respondent failed to communicate with the Complainant about the status of this matter. He did not return many phone calls and when he did speak with the Complainant he made excuses for the delay, some of which were not true.

Since we find clear and convincing evidence that the Respondent violated Rules 1.3 and 1.4 of the Rules of Professional Conduct, we reprimand the Respondent.

(D)
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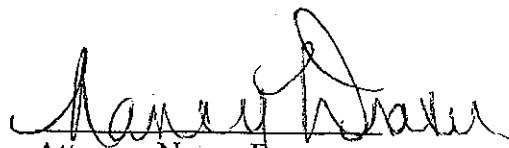
DECISION DATE:

9/14/12

Grievance Complaint #12-0006

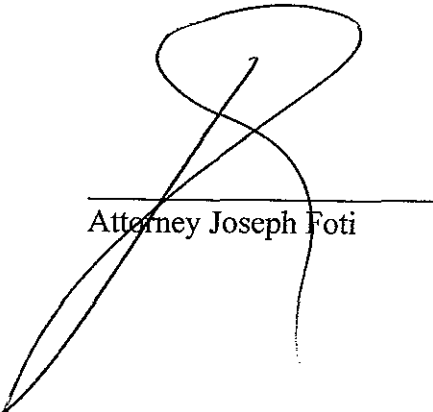
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Attorney Nancy Fraser

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Attorney Joseph Foti